

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 384, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 13, line 12, after "organization" insert "**or a collection agency**
- 2 **licensed under IC 25-11-1**".
- 3 Page 13, line 41, strike "includes:".
- 4 Page 14, line 2, after "resides." insert "**may include**:".
- 5 Page 17, line 23, after "organization," insert "**but not including a**
- 6 **collection agency licensed under IC 25-11-1**".
- 7 Page 18, line 11, strike "lender" and insert "**person**".
- 8 Page 25, between lines 17 and 18, begin a new paragraph and insert:
- 9 "SECTION 25. IC 26-2-9-1 IS AMENDED TO READ AS
- 10 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. **(a)** As used in this
- 11 chapter, "credit agreement" means an agreement to:
- 12 (1) lend or forbear repayment of money, goods, or things in
- 13 action;
- 14 (2) otherwise extend credit; or
- 15 (3) make any other financial accommodation.
- 16 **(b) The term includes an agreement to modify an agreement**
- 17 **described in subsection (a).**
- 18 SECTION 26. IC 26-2-9-4 IS AMENDED TO READ AS
- 19 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. **(a)** A debtor may
- 20 ~~bring an action upon assert:~~
- 21 **(1) a claim for legal or equitable relief; or**

1 **(2) a defense in a claim;**
 2 **arising from** a credit agreement only if the **credit** agreement **at issue**
 3 **satisfies the requirements set forth in subsection (b).**

4 **(b) A debtor may assert a claim or defense under subsection (a)**
 5 **only if the credit agreement at issue:**

6 (1) is in writing;

7 (2) sets forth all material terms and conditions of the credit
 8 agreement, including the loan amount, rate of interest, duration,
 9 and security; and

10 (3) is signed by the creditor and the debtor."

11 Page 26, between lines 7 and 8, begin a new paragraph and insert:

12 "SECTION 27. IC 28-1-5-2 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Every
 14 corporation has the capacity to act that is possessed by a natural person,
 15 but has the authority to perform only those acts that are necessary,
 16 convenient, or expedient to accomplish the purposes for which it is
 17 formed and that are not repugnant to law.

18 (b) Subject to any limitations or restrictions imposed by law or by
 19 the articles of incorporation, each corporation has the following general
 20 rights, powers, and privileges:

21 (1) To continue as a corporation, under its corporate name, for the
 22 period limited in its articles of incorporation, or, if the period is
 23 not so limited, then perpetually.

24 (2) To sue and be sued in its corporate name.

25 (3) To have a corporate seal and to alter such seal at its pleasure.

26 (4) To acquire, own, hold, use, lease, mortgage, pledge, sell,
 27 convey, or otherwise dispose of property, real and personal,
 28 tangible and intangible, in the manner and to the extent hereinafter
 29 provided.

30 (5) To borrow money and to mortgage or pledge its property to
 31 secure the payment thereof, in the manner and to the extent
 32 hereinafter provided; but no financial institution having power to
 33 accept deposits of money shall pledge any of the assets of such
 34 financial institution as security for the safekeeping and prompt
 35 payment of any money so deposited, except that any such
 36 financial institution may, for the safekeeping and prompt payment
 37 of any money so deposited, give security of the kind authorized by
 38 any statute of this state or by the Congress of the United States.

(6) To conduct business in this state and elsewhere.

(7) To appoint such officers and agents as the business of the corporation may require **and to do the following with respect to any officers or agents appointed:**

~~to~~ (A) Define their duties.

~~to~~ (B) Fix their compensation, which may include compensation paid pursuant to any plan of deferred compensation approved by ~~its~~ **the corporation's** board of directors.

~~to~~ (C) Enter into employment contracts with ~~its~~ **the corporation's** officers and agents which set forth terms and conditions of employment.

~~to~~ (D) Provide ~~its~~ **the corporation's** officers, agents, and employees with individual or group life insurance.

~~and to~~ (E) Procure and maintain in effect for the benefit of the bank, insurance on the life or lives of designated officers **or directors.**

(8) To make bylaws for the government and regulation of its affairs.

(9) To cease doing business and to dissolve and surrender its corporate franchise.

(10) To do all acts and things necessary, convenient, or expedient to carry out the purposes for which it is formed.

(c) Subject to any limitations or restrictions that the department may impose by rule or policy, each corporation may purchase and hold life insurance as follows:

(1) Life insurance purchased or held in connection with employee compensation or benefit plans approved by the corporation's board of directors.

(2) Life insurance purchased or held to recover the cost of providing preretirement or postretirement employee benefits approved by the corporation's board of directors.

(3) Life insurance on the lives of borrowers.

(4) Life insurance held as security for a loan.

(5) Life insurance that a national bank may purchase or hold under 12 U.S.C. 24 (Seventh)."

Page 35, line 10, delete "1(1)" and insert "1(1), 1(3), or 1(4)".

Page 37, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 34. IC 28-6.1-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) A savings bank may solicit and write insurance as an insurance producer or a broker for any insurance company authorized to do business in the state or states where the insurance producer or broker operates.

(b) A savings bank or its affiliate (as defined in IC 28-6.2-1-4) may act as an insurance producer for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in the state or states where the insurance producer operates.

(c) A savings bank or its affiliate that acts as an insurance producer for the sale of a life insurance policy or an annuity contract under subsection (b):

- (1) is subject to all requirements of IC 27 with respect to the insurance producer's activity in Indiana; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

(d) A savings bank or its affiliate may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of a service; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the savings bank or its affiliate.

(e) This section does not prohibit a savings bank or its affiliate from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the savings bank or its affiliate.

(f) Subject to any limitations or restrictions that the department may impose by rule or policy, a savings bank may purchase and hold life insurance as follows:

- (1) Life insurance purchased or held in connection with employee compensation or benefit plans approved by the savings bank's board.**
- (2) Life insurance purchased or held to recover the cost of**

1 **providing preretirement or postretirement employee benefits**
 2 **approved by the savings bank's board.**

3 **(3) Life insurance on the lives of borrowers.**

4 **(4) Life insurance held as security for a loan.**

5 **(5) Life insurance that a national bank may purchase or hold**
 6 **under 12 U.S.C. 24 (Seventh).".**

7 Page 42, line 1, delete "includes:" and insert "~~includes~~".

8 Page 42, line 2, after "resides." insert "**may include**".

9 Page 43, line 21, delete "ninety (90)" and insert "**thirty (30)**".

10 Page 50, line 2, delete "includes:" and insert "~~includes~~".

11 Page 50, line 3, after "resides." insert "**may include**".

12 Page 56, line 5, delete "includes:" and insert "~~includes~~".

13 Page 56, line 6, after "resides." insert "**may include**".

14 Page 65, between lines 18 and 19, begin a new paragraph and insert:

15 "SECTION 77. IC 28-15-2-1 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. **(a)** Savings
 17 associations may do the following:

18 (1) Accept deposit accounts.

19 (2) Issue evidence of deposit account ownership.

20 (3) Declare and distribute earnings to members.

21 (4) Pay, in part or in full, withdrawal requests of deposit accounts.

22 (5) Subject to the provisions and restrictions of 12 U.S.C. 84 and
 23 12 CFR 32:

24 (A) Make loans to members on the security of deposit
 25 accounts.

26 (B) Make property improvement loans.

27 (C) Make other loans as provided under IC 28-15-8.

28 (D) Make mortgage loans.

29 (E) Accept additional collateral on mortgage loans.

30 (F) Purchase and sell loans.

31 (G) Negotiate loan servicing agreements.

32 (H) Purchase and sell participating interests in loans.

33 (I) Issue letters of credit with specific expiration dates.

34 (J) Make secured or unsecured loans, which are partially
 35 insured or guaranteed in any manner by any state of the United
 36 States, the United States government, or any of its agencies or
 37 government sponsored enterprises.

38 (K) Purchase commercial paper that is denominated in United

- 1 States currency and rated by at least one (1) nationally
- 2 recognized investment rating service in one (1) of the two (2)
- 3 highest grades.
- 4 (L) Make, purchase, or participate in alternative mortgage
- 5 loans as provided in IC 28-15-11.
- 6 (6) Acquire and sell real estate in satisfaction of debts previously
- 7 contracted.
- 8 (7) Acquire real estate for the convenient transaction of its
- 9 business. A savings association has the same powers under this
- 10 subdivision as a bank or trust company has under IC 28-1-11-5.
- 11 (8) Notwithstanding any other law, establish, maintain, or relocate
- 12 one (1) or more branch offices by following the provisions of
- 13 IC 28-2-13, IC 28-2-17, or IC 28-2-18 as if the savings association
- 14 were a bank.
- 15 (9) Become a member in any agency or instrumentality of the
- 16 federal government. For the purposes of this subdivision,
- 17 membership in an agency or instrumentality of the federal
- 18 government may include:
- 19 (A) purchasing stock;
- 20 (B) purchasing notes and debentures; or
- 21 (C) borrowing money.
- 22 (10) Subject to any limitations imposed by the department through
- 23 policy:
- 24 (A) invest the money deposited in the savings association in
- 25 the shares of the capital stock, bonds, debentures, notes, or
- 26 other obligations of a federal home loan bank of the United
- 27 States;
- 28 (B) become a member of the federal home loan bank of the
- 29 district in which Indiana is located or an adjoining district;
- 30 (C) borrow money from:
- 31 (i) a federal home loan bank described in clause (B);
- 32 (ii) the Federal Deposit Insurance Corporation; or
- 33 (iii) any other corporation;
- 34 (D) transfer, assign to, and pledge with a federal home loan
- 35 bank described in clause (B), the Federal Deposit Insurance
- 36 Corporation, or any other corporation any of the bonds, notes,
- 37 contracts, mortgages, securities, or other property of the
- 38 savings association held or acquired as security for the

- 1 payment of loans entered into under clause (C); and
- 2 (E) exercise all rights, powers, and privileges conferred upon,
- 3 and do all things and perform all acts required of, members or
- 4 shareholders of a federal home loan bank by the Federal Home
- 5 Loan Bank Act (12 U.S.C. 1421 through 1449).
- 6 (11) Subject to the provisions and restrictions of 12 U.S.C. 24 and
- 7 12 CFR 1, invest in the following types of securities:
- 8 (A) Bonds, notes, certificates, and other valid obligations of
- 9 the United States government or any agency of the United
- 10 States government.
- 11 (B) Accounts offered by federally insured banks, savings
- 12 banks, and savings associations.
- 13 (C) Bonds, notes, or other evidences of indebtedness that are
- 14 general obligations supported by the full faith and credit of any
- 15 state in the United States or any city, town, or other political
- 16 subdivision in any state in the United States if the obligations
- 17 have been assigned one (1) of the four (4) highest grades by a
- 18 nationally recognized investment rating service.
- 19 (D) Shares of stock of a subsidiary that does not exercise a
- 20 power or engage in any activity that is not authorized for the
- 21 savings association. The investment power granted by this
- 22 subdivision is separate from the investment power granted by
- 23 IC 28-15-9.
- 24 (E) Corporate debt securities that are denominated in United
- 25 States currency and rated by at least one (1) nationally
- 26 recognized investment rating service in one (1) of the four (4)
- 27 highest grades. Corporate debt securities in which a savings
- 28 association invests under this clause must be convertible into
- 29 stock at the sole option of the holder, and a savings association
- 30 is prohibited from exercising the conversion option.
- 31 (F) Shares of open end investment companies that are eligible
- 32 for purchase by national banks.
- 33 (G) Bankers' acceptances that are eligible for purchase by
- 34 national banks.
- 35 (12) For the purpose of:
- 36 (A) check and deposit sorting and posting;
- 37 (B) computation and posting of interest and other credits and
- 38 charges;

- 1 (C) preparation and mailing of checks, statements, notices, and
- 2 similar items; or
- 3 (D) other clerical, bookkeeping, accounting, statistical, or
- 4 similar functions performed by a savings association;
- 5 invest in a corporation organized in any state to perform those
- 6 functions for two (2) or more savings associations, each of which
- 7 owns a portion of the capital stock of the corporation. The total
- 8 investment of a savings association under this subdivision may not
- 9 exceed ten percent (10%) of the capital and surplus of the savings
- 10 association. A savings association may not invest in this type of
- 11 corporation unless the corporation furnishes assurances to the
- 12 department that it will subject itself to examination by the
- 13 department to the same extent as if the services were performed
- 14 by the savings association.
- 15 (13) Lend money to other savings associations:
- 16 (A) the deposits of which are insured by the Federal Deposit
- 17 Insurance Corporation; and
- 18 (B) that are incorporated and operating under the laws of any
- 19 state or of the United States.
- 20 (14) Borrow money and mortgage or pledge its property to secure
- 21 payment.
- 22 (15) Issue subordinated notes or debentures.
- 23 (16) Assess and collect interest, fees, and other charges.
- 24 (17) Insure its deposit accounts with the Federal Deposit
- 25 Insurance Corporation or its successor.
- 26 (18) Act as an agent for the United States or its instrumentalities.
- 27 (19) Accept property for safe keeping or escrow.
- 28 (20) Rent or lease safe deposit boxes.
- 29 (21) Issue and sell checks, drafts, money orders, and other
- 30 instruments for the transmission or payment of money.
- 31 (22) Exercise all the powers that:
- 32 (A) are incidental and proper; or
- 33 (B) may be necessary and usual;
- 34 in carrying on the business of the savings association.
- 35 (23) Purchase or construct buildings, hold legal title to the
- 36 buildings, and lease the buildings for public purposes to municipal
- 37 corporations or other public authorities that have resources
- 38 sufficient to make payment of all rentals as they become due.

Each lease agreement entered into under this subdivision must provide that, upon expiration, the lessee will become the owner of the building.

(24) Open or establish automated teller machines at any location. An automated teller machine opened or established under this subdivision may be owned and operated individually or jointly on a cost sharing or fee basis.

(25) Act:

(A) in any fiduciary capacity in which a bank or trust company is permitted to act under this title; and

(B) as an agent for the sale of real estate, without bond or other security.

(26) Accept and maintain demand deposit accounts if the savings association is insured by the Federal Deposit Insurance Corporation or its successor.

(27) Without the approval of the department, to the extent authorized by the board of directors of the savings association, establish or maintain agencies that:

(A) only service and originate, but do not approve, loans and contracts; or

(B) manage or sell real estate owned by the savings association.

An agency established or maintained under this subdivision may offer any services not referred to in this subdivision with the approval of the department, except for accepting payment on savings accounts. An agency shall maintain records of all business it transacts and transmit copies to a branch or home office of the savings association.

(b) Subject to any limitations or restrictions that the department may impose by rule or policy, a savings association may purchase and hold life insurance as follows:

(1) Life insurance purchased or held in connection with employee compensation or benefit plans approved by the savings association's board of directors.

(2) Life insurance purchased or held to recover the cost of providing preretirement or postretirement employee benefits approved by the savings association's board of directors.

(3) Life insurance on the lives of borrowers.

- 1 **(4) Life insurance held as security for a loan.**
- 2 **(5) Life insurance that a national bank may purchase or hold**
- 3 **under 12 U.S.C. 24 (Seventh).".**
- 4 Renumber all SECTIONS consecutively.
(Reference is to SB 384 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

Paul

Chairperson